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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,926	09/09/2003	Marcus Janke	S&ZIO020201	5142

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EXAMINER	
PARTHASARATHY, PRAMILA	

ART UNIT	PAPER NUMBER
2136	

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/657,926	JANKE, MARCUS	
	Examiner	Art Unit	
	Pramila Parthasarathy	2136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 December 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/9/2003*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the communication 12/27/2004. Claims 1 – 13 were received for consideration. No preliminary amendments to the claims were filed. Claims 1 – 13 are currently pending.

Information Disclosure Statement

2. An initialed and dated copy of Applicant's IDS form 1449 is attached to the Office action.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 – 13 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 11 of U.S. Patent No. 6,999,333. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is fully disclosed in the patent and in the instant case all the elements of Claims 1-13 correspond to Claims 1 – 11 of U.S. Patent Number 6,999,333, except in the instant claims the elements "a computation unit for executing an operation at a speed" and "a state unit, which has a state, wherein the speed of the computation unit is controllable according to the state of the state unit, wherein the state unit is designed to cause an increase of a variable by which the state of the state unit can be represented each time an operation is executed by the computation unit in response to the increase of the variable due to executing of the operation", are referred in the patent claims as "a control device, which reads an electrical characteristic quantity from at least one one-time programmable cell" and "an assessment device which is connected to the control device, and which compares the electrical characteristic quality with at least a first threshold value and a second threshold value and emits a comparison result indicating an uncertain programming state". It would have been obvious to one having ordinary skill in the art to recognize that controlling the speed of the computation unit is equivalent to indicating an uncertain programming state.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Curiger et al. (U.S. Patent Number 6,330,668).

5. **As per Claim 1, Curiger** teaches, "a computation unit for executing an operation at a speed; and a state unit, which has a state, wherein the speed of the computation unit is controllable according to the state of the state unit, wherein the state unit is designed to cause an increase of a variable by which the state of the state unit can be represented each time an operation is executed by the computation unit, and to decrease the speed of the computation unit in response to the increase of the variable due to executing of the operation" (Column 4 lines 15 – 30 and 42 – 65).

6. **As per Claim 13, Curiger** teaches, "increasing a variable which represents a state of a state unit by a specified value each time the operation is executed by a computation unit of the processor; and decreasing the speed of the computation unit in response to the increase of the variable due to the execution of the operation" (Column 4 lines 15 – 30 and 42 – 65).

7. **As per Claim 2, Curiger** teaches, "wherein the state unit has continuous states" (Column 4 lines 4 – 14).

8. **As per Claim 3, Curiger** teaches, "wherein the state unit is so designed that the state of the state unit is also a function of time" (Column 4 lines 15 – 30).

9. **As per Claim 4, Curiger** teaches, "wherein the state unit is so designed that, when the computation unit performs no operations, the state of the state unit changes in a direction which is opposite to the direction of change in response to execution of an operation" (Column 4 lines 15 – 30 and Column 5 lines 37 – 55).

10. **As per Claim 5, Curiger** teaches, "wherein the state unit is so designed that the speed of the computation unit is inversely proportional to the variable, by which the state of the state unit can be represented" (Column 4 lines 15 – 30 and Column 5 lines 37 – 55).

11. **As per Claim 6, Curiger** teaches, "wherein the state unit is so designed that the speed of the computation unit is inversely exponential to the variable, by which the state of the state unit can be represented" (Column 4 lines 15 – 30 and Column 5 lines 37 – 55).

12. **As per Claim 7, Curiger** teaches, "wherein the state unit includes a capacitor and the state is a charge state of the capacitor" (Column 4 lines 15 – 30).

13. **As per Claim 8, Curiger** teaches, "wherein the state unit includes a unit with a thermal capacitance and the state is a temperature of the unit" (Column 4 lines 15 – 30 and Column 5 lines 37 – 55).

14. **As per Claim 10, Curiger** teaches, "wherein a frequency of a clock rate of the computation unit can be controlled according to the state of the state unit" (Column 4 lines 15 – 30).

15. **As per Claim 11, Curiger** teaches, "wherein a number of bits which are processed by an operation in the computation unit can be controlled according to the state of the state unit" (Column 4 lines 15 – 30 and Column 5 lines 37 – 55).

16. **As per Claim 12, Curiger** teaches, "wherein the operation is a cryptographic operation for encrypting or decrypting information" (Column 4 lines 15 – 30 and Column 5 lines 37 – 55).

17. **As per Claim 9, Curiger** teaches, "wherein the unit with a thermal capacitance also has a second temperature and the speed of the computation unit can also be controlled according to the second temperature" (Column 4 lines 15 – 30 and Column 5 lines 37 – 55).

Conclusion

18. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO Form 892.

Applicant is urged to consider the references. However, the references should be evaluated by what they suggest to one versed in the art, rather than by their specific disclosure. If applicants are aware of any better prior art than those are cited, they are required to bring the prior art to the attention of the examiner.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pramila Parthasarathy whose telephone number is 571-272-3866. The examiner can normally be reached on 8:00a.m. To 5:00p.m.. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Moazzami can be reached on 571-232-4195. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pramila Parthasarathy
November 26, 2006

NASSER MOAZZAMI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

11/27/06